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U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:16-cv-05829-NGG-SMG

Center for Popular Democracy v. Board of Governors of the Federal Reserve System

Date Filed: 10/19/2016

Jury Demand: None

Assigned to: Judge Nicholas G. Garaufis
Referred to: Magistrate Judge Steven M. Gold
Cause: 05:552 Freedom of Information Act

Nature of Suit: 895 Freedom of Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

Center for Popular Democracy

represented by **Stephen Paul Berzon**

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V.

Defendant

Board of Governors of the Federal Reserve System

represented by **Edwin R. Cortes**
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TERMINATED: 01/18/2019
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Date Filed	#	Docket Text
10/19/2016	1	COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF against Board of Governors of the Federal Reserve System filing fee \$ 400, receipt number 0207-9002102 Was the Disclosure Statement on Civil Cover Sheet completed -Yes,, filed by Center for Popular Democracy. (Attachments: # 1 Civil Cover Sheet, # 2 Proposed Summons, # 3 Exhibit) (Brown, Eric) (Entered: 10/19/2016)
10/21/2016		Case Assigned to Judge Nicholas G. Garaufis and Magistrate Judge Steven M. Gold. Please download and review the Individual Practices of the assigned Judges, located on our website . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. (Davis, Kimberly) (Entered: 10/21/2016)
10/21/2016	2	In accordance with Rule 73 of the Federal Rules of Civil Procedure and Local Rule 73.1, the parties are notified that if all parties consent a United States magistrate judge of this court is available to conduct all proceedings in this civil action including a (jury or nonjury) trial and to order the entry of a final judgment. Attached to the Notice is a blank copy of the consent form that should be filled out, signed and filed electronically only if all parties wish to consent. The form may also be accessed at the following link: http://www.uscourts.gov/uscourts/FormsAndFees/Forms/A0085.pdf . You may withhold your consent without adverse substantive consequences. Do NOT return or file the consent unless all parties have signed the consent. (Davis, Kimberly) (Entered: 10/21/2016)
10/21/2016	3	This attorney case opening filing has been checked for quality control. See the attachment for corrections that were made, if any. (Davis, Kimberly) (Entered: 10/21/2016)
10/21/2016	4	Summons Issued as to Board of Governors of the Federal Reserve System, U.S. Attorney and U.S. Attorney General (Davis, Kimberly) (Entered: 10/21/2016)
11/01/2016	5	SUMMONS Returned Executed by Center for Popular Democracy. Board of Governors of the Federal Reserve System served on 10/25/2016, answer due 11/26/2016. (Brown, Eric) (Entered: 11/01/2016)
11/01/2016	6	CERTIFICATE OF SERVICE by Center for Popular Democracy re 1 Complaint, 4 Summons Issued as to USA (Brown, Eric) (Entered: 11/01/2016)
11/22/2016	7	Consent MOTION for Extension of Time to File Answer or Otherwise Move with Respect to the Complaint by Board of Governors of the Federal Reserve System. (Cortes, Edwin) (Entered: 11/22/2016)
11/22/2016		ORDER: 7 Motion for Extension of Time to Answer is hereby GRANTED. Board of Governors of the Federal Reserve System answer due 12/15/2016. Ordered by Magistrate Judge Steven M. Gold on 11/22/2016. (Gillespie, Saudia) (Entered: 11/22/2016)

11/22/2016	8	SCHEDULING ORDER: An in-person initial conference will be held at 10:00 a.m. on February 15, 2017 before the undersigned in Courtroom 13-D South. Counsel for all parties must attend. Counsel for plaintiff is directed to immediately confirm this conference date and time with defendant's counsel. Adjournment requests will not be considered unless made in accordance with this Court's Individual Rules. Ordered by Magistrate Judge Steven M. Gold on 11/22/2016. (Attachments: # 1 Chambers Individual Rules) (Gillespie, Saudia) (Entered: 11/22/2016)
12/15/2016	9	ANSWER to 1 Complaint, by Board of Governors of the Federal Reserve System. (Cortes, Edwin) (Entered: 12/15/2016)
12/21/2016	10	MOTION for Leave to Appear Pro Hac Vice Filing fee \$ 150, receipt number 0207-9154546. by Center for Popular Democracy. (Attachments: # 1 Notice of Motion, # 2 Affidavit in Support) (Chan, Connie) (Entered: 12/21/2016)
12/21/2016		NOTICE: re 10 MOTION for Leave to Appear Pro Hac Vice. Counsel shall submit a Certificate of Good Standing (using the ECF Event "Letter") which has been issued within thirty (30) days of filing as required by Local Rule 1.3 (Gillespie, Saudia) (Entered: 12/21/2016)
01/03/2017	11	Letter <i>Certificate of Good Standing</i> by Center for Popular Democracy (Chan, Connie) (Entered: 01/03/2017)
01/04/2017		ORDER: 10 Motion for Leave to Appear Pro Hac Vice is hereby GRANTED. Attorney Connie K. Chan shall register for ECF, registration is available online at the NYEDs homepage. Once registered, the attorney shall file a notice of appearance and ensure that s/he receives electronic notification of activity in this case. Also, the attorney shall ensure that the \$150 admission fee be submitted to the Clerks Office. Ordered by Magistrate Judge Steven M. Gold on 1/4/2017. (Gillespie, Saudia) (Entered: 01/04/2017)
01/18/2017	12	MOTION for Leave to Appear Pro Hac Vice Filing fee \$ 150, receipt number 0207-9213408. by Center for Popular Democracy. (Attachments: # 1 Notice of Motion, # 2 Affidavit in Support) (Berzon, Stephen) (Entered: 01/18/2017)
01/18/2017	13	MOTION for Leave to Appear Pro Hac Vice Filing fee \$ 150, receipt number 0207-9213450. by Center for Popular Democracy. (Attachments: # 1 Notice of Motion, # 2 Affidavit in Support) (Weissglass, Jonathan) (Entered: 01/18/2017)
01/18/2017		ORDER: 12 Motion for Leave to Appear Pro Hac Vice is hereby GRANTED. Counsel Stephen Paul Berzon shall register for ECF, registration is available online at the NYEDs homepage. Once registered, the attorney shall file a notice of appearance and ensure that s/he receives electronic notification of activity in this case. Also, the attorney shall ensure that the \$150 admission fee be submitted to the Clerks Office. Ordered by Magistrate Judge Steven M. Gold on 1/18/2017. (Gillespie, Saudia) (Entered: 01/18/2017)
01/18/2017		ORDER: 13 Motion for Leave to Appear Pro Hac Vice is hereby GRANTED. Counsel Jonathan David Weissglass shall register for ECF, registration is available online at the NYEDs homepage. Once registered, the attorney shall file a notice of appearance and ensure that s/he receives electronic notification of activity in this case. Also, the attorney shall ensure that the \$150 admission fee be submitted to the Clerks Office. Ordered by Magistrate Judge Steven M. Gold on 1/18/2017. (Gillespie, Saudia) (Entered: 01/18/2017)
01/30/2017	14	NOTICE of Appearance by Stephen Paul Berzon on behalf of Center for Popular Democracy (notification declined or already on case) (Berzon, Stephen) (Entered: 01/30/2017)
01/30/2017	15	NOTICE of Appearance by Jonathan David Weissglass on behalf of Center for Popular Democracy (notification declined or already on case) (Weissglass, Jonathan) (Entered: 01/30/2017)
01/30/2017	16	NOTICE of Appearance by Connie K. Chan on behalf of Center for Popular Democracy (notification declined or already on case) (Chan, Connie) (Entered: 01/30/2017)
02/06/2017	17	Consent MOTION to Adjourn Conference <i>scheduled for February 15, 2017</i> by Board of Governors of the Federal Reserve System. (Cortes, Edwin) (Entered: 02/06/2017)
02/07/2017		ORDER: 17 Motion to Adjourn Conference is hereby GRANTED. The initial conference previously scheduled for February 15, 2017 is adjourned to April 4, 2017 at 3:30 p.m. in courtroom 13D South before the undersigned. Ordered by Magistrate Judge Steven M. Gold on 2/7/2017. (Gillespie, Saudia) Modified TIME OF CONFERENCE on 2/7/2017 (Gillespie, Saudia). (Entered: 02/07/2017)

02/07/2017		Set/Reset Hearings: Initial Conference set for April 4, 2017 3:30 p.m. in Courtroom 13D South before Magistrate Judge Steven M. Gold. (Gillespie, Saudia) (Entered: 02/07/2017)
04/04/2017		SCHEDULING ORDER: Due to a scheduling conflict, the initial conference scheduled for today at 3:30 p.m. is adjourned to 5:30 p.m. this evening. Ordered by Magistrate Judge Steven M. Gold on 4/4/2017. (Kaufman, Zachary) (Entered: 04/04/2017)
04/04/2017	18	Minute Entry: Initial Conference Hearing held on 4/4/2017 before Magistrate Judge Steven M. Gold. Chan for plaintiff, Cortes for defendant. the case management schedule proposed by the parties, calling among other things for defendant to provide a Vaughn index by April 28 and adequacy of search declaration by May 16, is approved. Plaintiff will notify defendant by June 2 whether discovery demands will be made, and any motion to compel will be brought by June 30 if there is a dispute. THE COURT WILL HOLD A CONFERENCE AT 3:00 PM ON JUNE 28. The parties will submit a joint letter by June 16, identifying the issues they intend to raise at the June 28 conference and indicating whether they prefer to appear in person or by telephone. (Gillespie, Saudia) (Entered: 04/06/2017)
06/16/2017	19	Joint MOTION to Adjourn Conference <i>and to Amend Schedule for Raising Discovery Disputes, and Joint Status Letter Updating the Court on the Status of the Action</i> by Board of Governors of the Federal Reserve System. (Cortes, Edwin) (Entered: 06/16/2017)
06/16/2017		ORDER: The joint application 19 to amend the scheduling order previously entered in this case is granted. Defendant shall file supplemental search declarations by July 21, 2017, plaintiff will notify defendant if it seeks discovery, and the parties will file a joint status report by August 18, 2017. THE CONFERENCE PREVIOUSLY SET FOR JUNE 28 IS ADJOURNED WITHOUT DATE, AND WILL BE RESCHEDULED AFTER THE AUGUST 18, 2017 STATUS REPORT IS RECEIVED. Ordered by Magistrate Judge Steven M. Gold on 6/16/2017. (Gillespie, Saudia) (Entered: 06/16/2017)
08/18/2017	20	STATUS REPORT <i>Joint Status Letter</i> by Center for Popular Democracy (Chan, Connie) (Entered: 08/18/2017)
08/21/2017		ORDER: The parties shall either file a form consenting to the reassignment of this action for all purposes to the undersigned Magistrate Judge or seek a pre-motion conference in the manner provided in the chambers practices of United States District Judge Garaufis. Ordered by Magistrate Judge Steven M. Gold on 8/21/2017. (Gillespie, Saudia) (Entered: 08/21/2017)
08/25/2017	21	Letter submitted jointly requesting that the Court approve the parties' proposed summary judgment briefing schedule by Board of Governors of the Federal Reserve System (Cortes, Edwin) (Entered: 08/25/2017)
08/25/2017		ORDER: The parties' 21 joint request that the court waive its pre-motion conference requirement is DENIED, as the parties have not provided the court with any reasons as to why this requirement should be waived. The parties are DIRECTED to confer and contact the court's Deputy at 718-613-2545 to schedule a pre-motion conference. Ordered by Judge Nicholas G. Garaufis on 8/25/2017. (Weigel, Jessica) (Entered: 08/25/2017)
09/25/2017	22	Motion to Appear by Telephone <i>and [Proposed] Order</i> by Center for Popular Democracy. (Chan, Connie) (Entered: 09/25/2017)
09/27/2017		ORDER re Plaintiff's 22 Application to Appear by Telephone; the Application is granted. Ordered by Judge Nicholas G. Garaufis on 9/27/2017.(Pressman, Michael) (Entered: 09/27/2017)
10/05/2017	23	Motion to Appear by Telephone <i>and [Proposed] Order</i> by Center for Popular Democracy. (Weissglass, Jonathan) (Entered: 10/05/2017)
10/10/2017		ORDER re Plaintiff's 23 Application to Appear by Telephone; the Application is granted. Ordered by Judge Nicholas G. Garaufis on 10/10/2017. (Pressman, Michael) (Entered: 10/10/2017)
10/12/2017		Minute Entry for proceedings held before Judge Nicholas G. Garaufis: Pre-Motion Conference held on 10/11/2017. Counsel for Defendant in person, counsel for Plaintiff present via telephone. The court granted the parties leave to cross-move for summary judgment and set the following briefing schedule: Defendant's motion for summary judgment is due on December 11, 2017; Plaintiff's cross-motion for summary judgment and opposition to Defendant's motion are due on February 9, 2018; Defendant's reply in support of its motion, if any, and opposition to Plaintiff's cross-motion are due on March 26, 2018; and Plaintiff's reply in support of its motion, if any, is due on May 10, 2018. The court encouraged the parties to confer and contact Magistrate Judge Steven M. Gold to discuss settlement. (Court Reporter Lisa Schmid.) (Pressman, Michael) (Entered: 10/12/2017)

12/05/2017	24	Consent MOTION for Leave to File Excess Pages by Board of Governors of the Federal Reserve System. (Cortes, Edwin) (Entered: 12/05/2017)
12/11/2017	25	Letter <i>serving motion for summary judgment on Plaintiff</i> by Board of Governors of the Federal Reserve System (Cortes, Edwin) (Entered: 12/11/2017)
12/14/2017	26	ORDER granting 24 Consent Motion for Leave to File Excess Pages by Board of Governors of the Federal Reserve System. Ordered by Judge Nicholas G. Garaufis on 12/13/2017. (Williams, Erica) (Entered: 12/14/2017)
02/02/2018	27	NOTICE of Consent to Change Attorney by Jonathan David Weissglass (Attachments: # 1 Proposed Order) (Weissglass, Jonathan) (Entered: 02/02/2018)
02/06/2018	28	ORDER Granting re: 27 Motion to Withdraw of Jonathan David Weissglass, counsel for Plaintiff. Ordered by Judge Nicholas G. Garaufis on 2/5/2018. (Williams, Erica) (Entered: 02/06/2018)
02/10/2018	29	MOTION for Summary Judgment by Center for Popular Democracy. (Chan, Connie) (Entered: 02/10/2018)
02/10/2018		Motions terminated, docketed incorrectly: 29 MOTION for Summary Judgment filed by Center for Popular Democracy. The document is not a motion, but a cover letter noting service of motion papers. Refiling is not necessary and further action is not needed unless you are contacted by the court. (Lee, Tiffeny) (Entered: 02/12/2018)
03/09/2018	30	Joint MOTION to Amend/Correct/Supplement <i>briefing schedule on the parties' cross-motions for summary judgment</i> by Board of Governors of the Federal Reserve System. (Cortes, Edwin) (Entered: 03/09/2018)
03/14/2018	31	ORDER granting 30 Motion to Amend Briefing Schedule. Defendant's reply in support of its motion, if any, and opposition to Plaintiff's cross-motion are due on April 16, 2018; Plaintiff's reply in support of its motion, if any, is due on June 11, 2018; and Defendant to file fully briefed cross-motions for summary judgment on June 13, 2018. So Ordered by Judge Nicholas G. Garaufis on 3/13/2018. (Lee, Tiffeny) (Entered: 03/14/2018)
04/16/2018	32	Letter <i>enclosing defendant's opposition to plaintiff's cross-motion for summary judgment and reply in further support of defendant's motion for summary judgment</i> by Board of Governors of the Federal Reserve System (Cortes, Edwin) (Entered: 04/16/2018)
05/29/2018	33	MOTION for Leave to Appear Pro Hac Vice Filing fee \$ 150, receipt number 0207-10466379. by Center for Popular Democracy. (Attachments: # 1 Affidavit) (Kushner, Andrew) (Entered: 05/29/2018)
06/01/2018	34	Consent MOTION for Leave to File Excess Pages by Center for Popular Democracy. (Brown, Eric) (Entered: 06/01/2018)
06/06/2018	35	NOTICE: The Court has reviewed attorney Andrew Kushner's application to proceed pro hac vice. See docket entry 33 . The affidavit in support of the motion is outdated. Counsel shall complete the attached updated form and file it on ECF using the event "letter". Counsel is encouraged to contact chambers at 718-613-2560 after filing is complete. (Gillespie, Saudia) (Entered: 06/06/2018)
06/06/2018	36	ORDER granting 34 Motion for Leave to File Excess Pages. So Ordered by Judge Nicholas G. Garaufis on 6/1/2018. (Lee, Tiffeny) (Entered: 06/06/2018)
06/07/2018	37	Letter <i>Affidavit of Andrew Kushner in Support of Motion to Admit Counsel Pro Hac Vice</i> by Center for Popular Democracy (Kushner, Andrew) (Entered: 06/07/2018)
06/07/2018		ORDER: Granting 33 Motion for Leave to Appear Pro Hac Vice. Attorney Andrew Kushner shall register for ECF, registration is available online at the NYEDs homepage. Once registered, the attorney shall file a notice of appearance and ensure that s/he receives electronic notification of activity in this case. Also, the attorney shall ensure that the 150 admission fee be submitted to the Clerks Office via filing the event <i>Pro Hac Vice Filing Fee</i> . Ordered by Magistrate Judge Steven M. Gold on 6/7/2018. (Gillespie, Saudia) (Entered: 06/07/2018)
06/07/2018		Incorrect Case/Document/Entry Information: Please disregard the Status Report Order dated 6/7/2018. The entry was inadvertently filed. Docket entry deleted. (Gillespie, Saudia) (Entered: 06/07/2018)
06/07/2018	38	NOTICE of Appearance by Andrew Kushner on behalf of Center for Popular Democracy (notification declined or already on case) (Kushner, Andrew) (Entered: 06/07/2018)

06/11/2018	39	Letter <i>Enclosing Plaintiff's memorandum of law in further support of plaintiff's motion for summary judgment</i> by Center for Popular Democracy (Brown, Eric) (Entered: 06/11/2018)
06/13/2018	40	MOTION for Summary Judgment <i>served by Defendant</i> by Board of Governors of the Federal Reserve System. (Attachments: # 1 Memorandum of Law, # 2 Rule 56.1 Statement, # 3 Edwin R. Cortes Declaration, # 4 Ex. 1 to Cortes Decl., # 5 Ex. A to Ex. 1 of the Cortes Decl., # 6 Ex. B to Ex. 1 of the Cortes Decl., # 7 Ex. C to Ex. 1 of the Cortes Decl., # 8 Ex. D to Ex. 1 of the Cortes Decl., # 9 Ex. E to Ex. 1 of the Cortes Decl., # 10 Ex. F to Ex. 1 of the Cortes Decl., # 11 Ex. G to Ex. 1 of the Cortes Decl., # 12 Ex. 2 to Cortes Decl., # 13 Ex. 3 to Cortes Decl., # 14 Ex. 4 to Cortes Decl., # 15 Ex. 5 to Cortes Decl., # 16 Ex. 6 to Cortes Decl.) (Cortes, Edwin) (Entered: 06/13/2018)
06/13/2018	41	Cross MOTION for Summary Judgment <i>and Opposition to Defendant's Motion for Summary Judgment served by Plaintiff</i> by Board of Governors of the Federal Reserve System. (Attachments: # 1 Memorandum of Law, # 2 Plaintiff's 56.1 Statement, # 3 Plaintiff's Response to Defendant's Rule 56.1 Statement, # 4 Declaration of Connie Chan with exhibits, # 5 Declaration of Shawn Sebastian with exhibits) (Cortes, Edwin) (Entered: 06/13/2018)
06/13/2018	42	RESPONSE in Opposition re 41 Cross MOTION for Summary Judgment <i>and Opposition to Defendant's Motion for Summary Judgment served by Plaintiff and Reply in Further Support of Defendant's Motion for Summary Judgment</i> filed by Board of Governors of the Federal Reserve System. (Attachments: # 1 Defendants response to Plaintiffs Rule 56.1 statement, # 2 Defendant's Consolidated Rule 56.1 Statement, # 3 Reply Declaration of Edwin Cortes, # 4 Ex. 1 to the Reply Cortes Decl.) (Cortes, Edwin) (Entered: 06/13/2018)
06/13/2018	43	REPLY in Support of <i>Plaintiff's Cross-Motion for Summary Judgment served by Plaintiff</i> filed by Board of Governors of the Federal Reserve System. (Attachments: # 1 Plaintiff's Consolidated Rule 56.1 Statement) (Cortes, Edwin) (Entered: 06/13/2018)
06/13/2018	44	Letter <i>enclosing fully briefed motions for summary judgment</i> by Board of Governors of the Federal Reserve System (Cortes, Edwin) (Entered: 06/13/2018)
06/15/2018	45	NOTICE of Consent to Change Attorney by Connie K. Chan (Attachments: # 1 Proposed Order) (Chan, Connie) Modified to motion event on 6/20/2018 (Lee, Tiffeny). (Entered: 06/15/2018)
06/20/2018	46	ORDER granting 45 Motion to Withdraw as Attorney. Attorney Connie K. Chan terminated. So Ordered by Judge Nicholas G. Garaufis on 6/19/2018. (Lee, Tiffeny) (Entered: 06/20/2018)
01/18/2019	47	NOTICE of Appearance by Kathleen Anne Mahoney on behalf of Board of Governors of the Federal Reserve System (aty to be noticed) (Mahoney, Kathleen) (Entered: 01/18/2019)
01/18/2019	48	MOTION to Withdraw as Attorney by Board of Governors of the Federal Reserve System. (Attachments: # 1 Edwin Cortes Declaration) (Cortes, Edwin) (Entered: 01/18/2019)
01/18/2019		ORDER: Granting 48 Motion to Withdraw as Attorney. Attorney Edwin R. Cortes terminated. Ordered by Magistrate Judge Steven M. Gold on 1/18/2019. (Gillespie, Saudia) (Entered: 01/18/2019)

07/16/2019	49	MEMORANDUM & ORDER, For the reasons stated above. Defendant's motion for summary judgment is GRANTED IN PART and DENIED IN PART, and Plaintiff's cross-motion for summary judgment is GRANTED IN PART and DENIED IN PART. Defendant is directed to take the following actions consistent with this order; (1) search the documents of all members of the Board of Governors from the relevant period; (2) expand the search terms used to search emails and other records to include obvious alternative search terms, including keywords and the names or e-mail addresses of all relevant individuals, or provide sufficient explanations as to why particular proposed searches would constitute an unreasonable burden; (3) search records at the Reserve Banks that constitute "Records of the Board" within the meaning of 12 C.F.R. § 261.2(i)(l), including those records concerning presidential appointments and assessments that might be responsive to Part II of the FOIA Request, records relating to the Board's oversight of appointments of Reserve Bank directors that might be responsive to Parts IV and V of the FOIA Request, and records of annual assessments of Reserve Bank presidents; and (4) search for the Annotated Bank Evaluation summaries and documents referencing them in connection with presidential appointments. Defendant must then produce all responsive documents not covered by a FOIA exemption. With respect to Plaintiff's contention that Defendant failed to pursue a "clear and certain lead" to responsive documents provided by the Board of Governors' Frequently Asked Questions web page and a summary of the Board's February 19, 2016 meeting ("see supra Part 111(A)(3)(b)), the court finds Defendant's search to have been adequate. Defendant's motion for summary judgment is also granted with respect to its withholding of information under exemptions 5 and 6 of FOIA. So Ordered by Judge Nicholas G. Garaufis on 7/15/2019. (Lee, Tiffeny) (Entered: 07/16/2019)
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